

Message

From: Faeth, Lisa [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12AF792B39CC4B4FA8089976F3F8859F-LFAETH]
Sent: 8/20/2018 4:04:10 PM
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Subject: News Articles (For EPA Distribution Only)

GREENWIRE ARTICLES

Senate Dems fire another shot at 'secret science' proposal

Sean Reilly, E&E News reporter

Published: Friday, August 17, 2018



EPA headquarters in Washington. Robin Bravender/E&E News

Nine Senate Democrats are framing an EPA plan to restrict the types of studies that can be used in crafting new regulations as part of a broader pattern of "regulatory capture" by industries the agency is charged with overseeing.

<https://www.eenews.net/greenwire/2018/08/17/stories/1060094651>

PUBLIC HEALTH

Calif. looks to cancel coffee cancer warnings

Published: Friday, August 17, 2018

California might create an exemption for coffee that would reverse a court decision requiring cancer warnings.

The Los Angeles Superior Court ruled in March that state law requires the warnings because of the presence of the chemical acrylamide, which is a byproduct of roasting coffee.

<https://www.eenews.net/greenwire/2018/08/17/stories/1060094607>

BNA DAILY ENVIRONMENT REPORT ARTICLES

[Walmart to Shed Solvents Linked to Deaths, Birth Defects](#)

By Pat Rizzuto

Posted Aug. 20, 2018, 10:00 AM

Walmart Inc., the world's largest retailer, will stop selling paint strippers containing a solvent linked to more than a dozen deaths and a second solvent that could harm the development of babies in the womb.

Trump's Power-Plant Proposal May Increase U.S. Carbon Pollution

By Jennifer A. Dlouhy

Posted Aug. 20, 2018, 8:33 AM

Donald Trump is poised to replace former President Barack Obama's plan to slash power plant greenhouse gas emissions with a substitute that could actually increase them.

Watch Out Starbucks, Kellogg's: Tougher Warning Mandates Coming

By Julie Steinberg

Posted Aug. 20, 2018, 7:07 AM

Starbucks, Kellogg's, and General Mills are only a few of the many companies that have found their products targeted under California's chemical warnings law in recent years.

INSIDEEPA.COM ARTICLES

Courts' Rejection Of EPA Rule Delays Poses Test For Wheeler's Agenda

EPA's recent court losses in cases undoing implementation delays for two major Obama-era rules create additional legal complications for acting agency chief Andrew Wheeler's agenda, as he faces new pressures to implement regulations that were previously on hold unless the agency can find a rationale to further delay them.

EPA Receives Conflicting Comments On Proposed Lead Dust Rule Update

EPA's proposal to strengthen its 2001 lead paint dust hazard standards is spurring conflicting reactions, with healthy housing groups, environmentalists and some states urging the agency to significantly tighten its standards for protective measures in some locations, though home builders say more data is necessary to ensure the proposal is viable.

EPA Drops Plan To Weigh First Responders' Asbestos Risk, Citing Legacy Use

EPA has dropped an early plan to consider risks of asbestos exposures to firefighters and other first responders due to its policy of excluding legacy uses from consideration for possible regulation under the revised toxics law, a move that is drawing protest from a group representing the workers and highlights the controversy around the policy decision.

Industry Backs EPA's Plan For Narrow Asbestos Analysis, Sparking Clash

The power industry is supporting EPA's narrow approach for assessing the health risks of exposure to asbestos, especially its decision to preclude legacy uses, setting up a clash with critics who say the agency should broadly assess all risks as part of an effort to ban the mineral.

Experts Say OMB, Not EPA, Should Make Any Cost-Benefit Review Updates

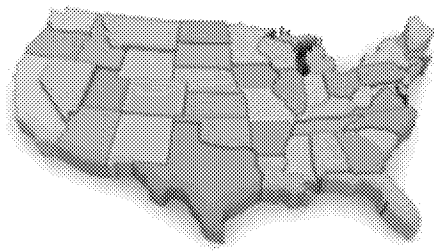
Several experts say the White House Office of Management & Budget (OMB) -- or some other interagency process -- should be responsible for any new policies to establish greater "consistency" in cost benefit analysis, rather

CHEMICAL WATCH ARTICLES

States push for broad TSCA evaluations, despite preemption considerations

Excluded conditions of use face potential state-level action

17 August 2018 / TSCA, United States



State attorney generals have written to the EPA urging it to broaden the scopes of TSCA risk evaluations, even though such an approach could limit their ability to act on those substances. But states are also poised to fill any 'gaps' left from uses omitted from the agency's assessments.

The attorney generals' 3 August letter came in response to the consultation on the agency's 'problem formulations'. These refine the scopes of the assessment the agency is set to conduct on the first ten substances subject to risk evaluation under the law.

Co-signed by attorneys from nearly a dozen states historically active in chemicals management – including California, Vermont and Washington – the letter argues that the scopes reflected in the agency's 'problem formulations' represent an "unlawfully restrictive application of TSCA, [which] ignores that Congress intended for the EPA to assess a chemical in its entirety".

As drafted, the problem formulations would "produce deeply flawed risk evaluations" that would make it impossible for the EPA to fulfil its statutory mandate to protect against unreasonable risks, they say.

And they call on the EPA to issue revised scopes for the risk evaluations to address the agency's "fatally flawed" approach to identifying the conditions of use.

TSCA preemptive effects

The attorney generals' push for more robust assessments comes despite the fact that such an action would, in turn, result in broader preemption of the actions that states can take under the reformed TSCA law.

Outside of certain exemptions (see box), states may not act once the EPA has taken a final action on a substance – either by finalising a risk management rule to address identified risks, or by making an affirmative finding that the substance does not pose a substantial risk.

Crucially, this preemptive effect extends only to the uses of substances that the agency evaluates under its risk evaluations. Any condition of use excluded or missed from its final risk evaluation will then be on the table for states to regulate, if they wish.

Ken Zarker, pollution prevention and regulatory assistance manager at Washington state's Department of Ecology, told Chemical Watch the state is closely monitoring the early evaluations. But with regard to the potential for these to omit certain uses, he said: "We would certainly fill any gaps, as states."

"The more that EPA narrows these scopes, it's going to give the states broader abilities to act where the gaps exist," he said. "We still have that ability, and states can move a lot quicker if we need to."

However, he added that the state would prefer to see "a strong federal system".

Business considerations

Martha Marrapese, a partner with law firm Wiley Rein, told Chemical Watch that this potential for states to act leaves companies with an evaluated substance in an "interesting" position in relation to the uses the EPA includes in its evaluations.

If the EPA evaluates the substance and makes an affirmative finding that it does not pose an unreasonable risk, Ms Marrapese said, then states will be blocked from acting. But for any use the EPA doesn't evaluate, "the states will still have the abilities to regulate themselves, to the extent they're not preempted by other federal laws".

A company might argue that their use of a substance is safe or results in negligible exposure and therefore should be excluded from the assessment, she said. But "the downside to that is if it's not part of EPA's risk evaluation, those companies are still going to be fighting that battle on a state-by-state basis".

"If you believe you have a safe use, it benefits you to have it be part of EPA's risk evaluation", because then states will be preempted from acting, she added.

The problem formulations consultation closed on 16 August. The EPA must finalise its risk evaluations by December 2019.

Preemption: A critical issue

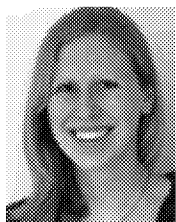
Preemption arose as a critical issue during efforts to negotiate the Lautenberg Act, which amended TSCA in 2016. One of industry's motivations for coming to the negotiating table was to put in place a stronger federal system that would combat the myriad state regulations appearing on chemicals of concern.

TSCA preempts state action on a chemical-specific basis. Final action by EPA on a substance – whether by determining it does not present an unreasonable risk, or by imposing a risk management regulation to address identified risks – blocks states from imposing their own restrictions. This extends only to those uses evaluated by the agency.

There are, however, exemptions. Activities that are not preempted include:

- actions already taken by states before 22 April 2016;
- past or future actions taken under laws that were in effect before 31 August 2003 (which effectively safeguards California's Proposition 65 law);
- information-seeking requirements, such as reporting, monitoring or disclosure rules; and
- most state regulations imposed under water quality, air quality, waste treatment or disposal laws.

States may also seek a waiver to impose restrictions on a substances following final EPA action.



Kelly Franklin

North America editor

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- [EPA names first ten chemicals for new TSCA evaluations](#)

Further Information:

- [Attorney generals' letter](#)
- [TSCA preemption FAQs](#)

US toxics agency releases final profile for two diisocyanates

17 August 2018 / Built environment, Risk assessment, United States

The US Agency for Toxic Substances and Disease Registry has released its final toxicological profile for toluene diisocyanate (TDI) and methylene diphenyl diisocyanate (MDI).

Both substances are used in many polyurethane household products, including furniture cushions, carpet padding and waterproof sealants. Neither occurs naturally in the environment.

In products such as cushions the diisocyanates are cured and, the report says, consumers are unlikely to be exposed through this route.

Exposure to TDI can occur in the air, though, from products such as adhesives, sealants, coatings, paints, craft materials and insulating foam.

The ATSDR profile, which includes a public health statement, says asthma and symptoms of asthma have been observed in some individuals who are particularly sensitive to the substances.

The public health statement points to research by the Department of Health and Human Services that considers TDI as "reasonably anticipated to be a human carcinogen". It also notes that the International Agency for Research on Cancer (IARC) classifies TDI as possibly carcinogenic to humans.

On MDI, the statement says there is limited data on whether it can cause cancer. It points out that IARC has found that the substance is not classifiable as carcinogenic to humans.

In July, the EU's human biomonitoring project, [HBM4EU](#), which aims to harmonise the exposure assessment method, added diisocyanates to its second list of priority substances. In March, ECHA's Socio-economic Analysis Committee (SEAC) adopted final [Opinions](#) on restrictions proposed on the use of diisocyanates in the workplace.

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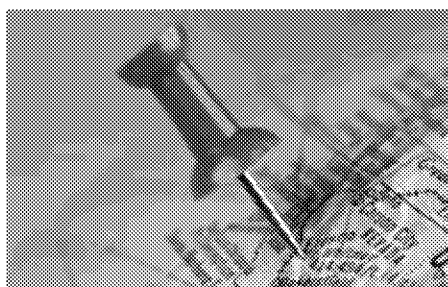
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- [ATSDR profile](#)

California proposes change to furniture fire safety regulation

Amendment could reduce reliance on flame retardants

17 August 2018 / Built environment, United States



The US state of California is considering an amendment to its flammability regulations, which would eliminate the need for flame retardant use in upholstered furniture designed for public places.

A proposal by the California Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bearhfti) would remove all reference to Technical Bulletin (TB) 133 from the California Code of Regulations.

This is a standard for furniture intended for public occupancies that seat 10 people or more. It applies to venues such as restaurants, prisons, hotels, churches, hospitals and care homes.

TB 133 includes an open flame test designed to simulate conditions "typical of arson or incendiary fires or common accidental fires in public buildings", and is typically met through the use of flame retardants.

'Unnecessary health risks'

According to a notice of proposed change by Bearhfti, TB 133 is "a redundant test standard that causes confusion within the industry and presents unnecessary health risks".

The proposed regulatory action is projected "to lower costs of upholstered seating furniture used in public buildings and reduce the need for flame retardants in component materials," the document continues.

Also, it says the action is anticipated to "improve public health by reducing exposure to carcinogenic organohalogen flame retardants".

If the proposal to remove reference to TB 133 is adopted, it would also remove labelling requirements for upholstered seating furniture meeting TB 133.

Manufacturers would instead have to comply with the California upholstered furniture flammability standard, TB 117-2013, which requires a smoulder-resistance test that can more readily be met without the use of flame retardants.

Members of the public are invited to submit comments about the proposal in writing to Bearhfti. A public hearing about the proposed amendment will take place on 17 September.

Industry view

David Panning, technical services director at the Business and Institutional Furniture Manufacturers Association (Bifma), said its members are "very supportive of California repealing the TB 133 regulation".

He added that "the scientific community is very concerned about the use of fire retardant chemicals to meet TB 133" because of the associated health risks.

But the North American Flame Retardant Alliance (Nafra) insists the use of flame retardants is important to ensure the safety of public spaces.

"Fire-related fatalities and injuries associated with upholstered furniture are among the most serious fire problems in the US, and this proposal would reduce the fire safety standard for furniture," a spokesperson told Chemical Watch.

National action

In October last year, the city of San Francisco, California banned the sale of upholstered furniture and children's products containing flame retardant chemicals. The law is due to go into effect in January 2019.

More than a dozen US states have banned some categories of flame retardants and many more are considering legislation to restrict their use.

On a national level, the Consumer Product Safety Commission (CPSC) voted in September last year to ban the use of organohalogen flame retardants in furniture and several other household product categories. The CPSC plans to make a decision next year on whether to adopt California's TB 117-2013 as a national flammability standard for residential upholstered furniture.



Tammy Lovell

Business reporter

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Further Information:

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